
**State Government Operations &
Accountability Committee**

HB 3224

Brief Description: Concerning military service.

Sponsors: Representatives Haigh, Kilmer, Sells, Roberts and Green.

Brief Summary of Bill

- Changes the type of military service for which leave of absence credit may be given to members of the Washington public employees' retirement system (PERS) from active federal service in the military or naval forces of the United States to service in the uniformed services, as defined by statute.
- Requires that PERS members be given service credit for an authorized military leave of absence, regardless of when the member returns to employment.
- Terminates the military leave of absence service credit if the member is dishonorably discharged from the military or is otherwise separated from the military under dishonorable conditions.
- Prohibits, except in certain circumstances, any club, society, association, corporation, employer, or organization from inquiring about a person's membership in any organized militia or membership in the uniformed services.

Hearing Date: 1/31/06

Staff: Kathryn Leathers (786-7114).

Background:

Leave of Absence for Military Service

There are four primary retirement systems for public employees: (1) the Public Employees' Retirement System (PERS); (2) the Teachers' Retirement System (TRS); (3) the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF); and (4) the School Employees' Retirement System (SERS). The PERS and TRS have three plans that have been established by the Legislature over time (Plans 1, 2 and 3), while LEOFF (Plans 1 and 2) and SERS (Plans 2 and 3) each have two plans. Plans 1 and 2 are defined benefit plans, while Plan 3 consists of a defined benefit portion and a defined contribution portion.

Plan 2 members of the TERS, SERS, and PERS are eligible to receive a maximum service credit of five years for an authorized leave of absence for military service. Under PERS, military service is defined as active federal service in the military or naval forces of the United States. If a PERS member takes an authorized leave of absence for military service, the member is entitled to the service credit if he or she returns to such employment within one year from termination of the military service. Such persons are deemed to be on military leave of absence during the period of military service.

If the returning member applies for reinstatement of employment within the one-year period and employment is refused for reasons beyond his or her control, the service credit will be applied if the person returns to public employment within ten years. In addition, any member with 25 years of creditable service can receive a maximum of five years of military service credit regardless of whether the member took a leave of absence from the employer during that 25 years. Members with 25 years of creditable service must still restore all withdrawn accumulated contributions; must be a veteran as defined in law; and must not be receiving full military benefits under federal law.

Discrimination in Employment Against Members of the Militia

Discrimination by any club, society, association, corporation, employer, or organization in employment based on membership in the state militia is prohibited. Any person or entity that violates this law, or that assists another in violating this law, is guilty of a misdemeanor, and, upon conviction, must be fined an amount not exceeding one hundred dollars and shall forfeit the right to do business for 30 days.

Summary of Bill:

Leave of Absence for Military Service

As it relates to the Washington public employees' retirement system (PERS) and the provisions for when PERS members are eligible to receive a leave of absence credit for military service, the type of military service for which credit may be given is expanded to apply to service in the uniformed services, as defined by statute.

"Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty (including state-ordered active duty), and a period for which a person is absent from his or her employment for the purpose of taking an examination to determine the fitness of the person to perform any such duty.

"Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the President of the United States in time of war or national emergency.

Members must be given service credit for the military leave of absence, regardless of when the member returns to employment. This service credit must be terminated if the member:

- receives a dishonorable or bad conduct discharge, or is separated from military duty under circumstances other than honorable conditions;

- is dismissed from service by sentence, or in commutation of a sentence, of a general court-martial, or by order of the President in times of war; or
- is dropped from the rolls of any armed forces by the President for reasons that include: being absent without authority for at least three months; and conviction by a court other than a military court of an offense the sentence for which includes confinement in a federal or state penitentiary or correctional institution.

Discrimination in Employment Against Members of the Militia

The law prohibiting discrimination in employment based on membership in the state militia is modified to also prohibit any club, society, association, corporation, employer, or organization from inquiring about a person's membership in any organized militia, including membership in any militia other than the state militia, or membership in the uniformed services, unless:

- such membership or former membership is a condition of employment;
- the employer has a formal written policy of providing preference in hiring to veterans or current members of the uniformed services; or
- such membership or former membership is a requirement for membership in the club, society, association, or organization.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.